

RISK MANAGEMENT DIVISION BULLETIN

THE ISSUE: NON-STATE EMPLOYEES DRIVING STATE-OWNED VEHICLES

For many reasons, State agencies utilize independent contractors, interns, volunteers and other non-state employees to conduct State business. Risk Management Division routinely receives requests from agencies asking permission for such non-state employees to operate State owned vehicles while on State business. We recognize that this is one way for State agencies to keep costs down and make full use of State resources. This practice, however, does lead to vehicle liability concerns.

THE INSURANCE CONCERNS

State of Maine employees who operate vehicles owned by the State of Maine while in the course and scope of their employment are fully covered through our Risk Management Division self insurance fund. As State employees, they are afforded protection under the Maine Tort Claims Act. Vehicle liability coverage through the State's self-insurance fund is written to adhere to this Act. In some cases and under certain circumstances, non-state employees may not be afforded the same protection through this Act as State employees and thus may have an uninsured exposure if driving a State-owned vehicle. The State may also have an increased exposure for allowing such usage. Another concern is the State's potential lack of administrative or supervisory control over non-State employees and their actions.

RISK MANAGEMENT DIVISION'S POSITION

We discourage the practice of allowing non-state employees to drive State-owned vehicles. However, recognizing that some vehicle usage by non-state employees is inevitable and to be responsive to our customer's needs, we have (with input from the Attorney General's office) developed the following criteria to allow such usage when deemed necessary by a Department. By meeting this criteria, the State's exposure is controlled to a degree which is acceptable and which does not place the self insurance fund or your department at risk.

CRITERIA

Persons other than state employees may not operate vehicles registered to the State of Maine until all of the following criteria are met:

1. The driver is at least 18 years of age; and
2. The use of the vehicle is necessarily related to the fulfillment of the mission of that State of Maine governmental entity permitting such use of the vehicle; and
3. Permission is granted by an authorized official within the State of Maine governmental department to whom the vehicle is registered¹; and
4. A Vehicle Use Agreement form is signed by the driver, by a State departmental official, and when necessary, approved by Risk Management Division.

¹ For the purposes of the issues described here, vehicles available to State of Maine departments such as those available from Central Fleet Management may be treated as though they were department vehicles. These departments may authorize use by non-state employees, if all other criteria is met.

VEHICLE USE AGREEMENT FORM

This form may be duplicated by departments as necessary. The form is to be read, understood and signed by the driver. The Department should take the time to explain to the non-state driver the form, permitted and non-permitted usage, the seat belt work rule and the procedures to be followed in case of a vehicle accident. The State official authorizing the usage is to then sign the form, print their name and department information and immediately forward the completed form to Risk Management Division. RMD will examine the form for completeness, order and review the driver's Maine motor vehicle record and complete the process.

Please note: Risk Management does not have the ability to check out of state motor vehicle records (MVRS). Therefore, any operator signing a vehicle use agreement form who has an out of state license **MUST** (at his/her or your agency's expense) provide our office with a current MVR from their state before we can continue the approval process. Risk Management will continue to check Maine motor vehicle records at no expense.

No exceptions can be considered by Risk Management in those instances where **CRITERIA** items one, two and three are not affirmed. Persons who have been convicted of one or more vehicle violations in the past five years will be evaluated for insurability by Risk Management Division on a case by case basis. The Department of Administrative and Financial Services, Risk Management Division, reserves the right to refuse insurance protection when the risks involved are determined to be prejudicial to the State's insurance program as permitted MRSA 5 Chapter 152 section 1728-A subsection 3. Every effort will be made by Risk Management Division to consider these exception cases in an expedient manner and to communicate our decision promptly. (If driving will be a necessary part of the individual's work, we suggest that you do not make any final decision regarding that individual until you have received confirmation of RMD approval.)

If there are any questions regarding this issue, these criteria, or this form, please don't hesitate to call Risk Management Division.

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